

KELLY HUTCHESON, M.D.  
AMRO ALI, M.D. vs WESTCHESTER MEDICAL

September 25, 2020

1

1  
2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x  
5 AMRO ALI, M.D.,

6 Plaintiff,

7 -against- No. 1:19-cv-08324

8 WESTCHESTER MEDICAL CENTER AND NEW YORK

9 MEDICAL COLLEGE,

Defendants.

10 -----x  
11  
12  
13 VIDEOTELECONFERENCED DEPOSITION OF

14 KELLY HUTCHESON, M.D.

15 Valhalla, New York

16 Friday, September 25, 2020  
17  
18  
19  
20  
21  
22

23 Reported by:  
24 Aydil M. Torres, CSR  
25 JOB NO. J6033885

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10:21 a.m.

VTC deposition of KELLY  
HUTCHESON, M.D., held at 100 Woods  
Road, Valhalla, New York pursuant  
to Notice, before Aydil M. Torres,  
a Notary Public of the State of  
New York.

A P P E A R A N C E S:

ROBERT W. SADOWSKI, PLLC

Attorneys for Plaintiff

800 Third Avenue

New York, New York 10022

BY: ROBERT W. SADOWSKI, ESQ.

MEYER POUZZI ENGLISH & KLEIN

Attorneys for Defendants

990 Stewart Avenue

Garden City, New York 11530

BY: PAUL MILLUS, ESQ.

ALSO PRESENT:

Amro Ali, M.D.

Newman Hoffman, Esq.

Daniel Rinaldi, Esq.

## S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing,  
sealing and certification and the  
same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the  
form of the question shall be reserved  
to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed  
and sworn to before any officer authorized  
to administer an oath, with the same force  
and effect as if signed and sworn to before  
the Court.

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K E L L Y     H U T C H E S O N ,

called as a witness, having been  
duly sworn by a Notary Public, was  
examined and testified as follows:

THE REPORTER: Please state  
your full name for the record.

THE WITNESS: Kelly  
Hutcheson.

THE REPORTER: Please state  
the address you're currently  
located.

THE WITNESS: 100 Woods  
Road, Valhalla, New York 10595.

EXAMINATION BY

MR. SADOWSKI:

Q. Dr. Hutcheson, my name is Robert  
Sadowski. I represent Dr. Amro Ali in his  
action against New York Medical College and  
Westchester Medical Center. Have you ever  
been deposed before?

A. Yes, I have.

Q. How often?

A. A couple of times in my career.

Q. When was the last time you were

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2 deposed?

3 A. Been a couple of years.

4 Q. Okay. Were you a party to that  
5 action or a witness?

6 A. A witness.

7 Q. Let's refresh the rules of  
8 deposition. The most important rule is that  
9 you allow me to finish my question, before  
10 you begin to answer it. This is important  
11 because the court reporter can only take down  
12 one person speaking at a time. If at any  
13 time you want to take a break, let me know.  
14 I's just ask that if there is a question  
15 pending, you answer that question, before we  
16 take a break. If you don't understand my  
17 question, please let me know. From time to  
18 time your Counsel may object to my question,  
19 but you are to answer the question, unless  
20 your Counsel directs you not to answer the  
21 question. Have you taken any medication or  
22 substances that could affect your ability to  
23 testify truthfully today?

24 A. No.

25 Q. Dr. Hutcheson, where do you work?

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2 A. Westchester Medical Center.

3 Q. What's your title there?

4 A. Sorry?

5 Q. What is your title?

6 A. I am director of ophthalmology.

7 Q. How long have you been director of  
8 ophthalmology?

9 A. About two and a half years.

10 Q. What are your responsibilities as  
11 director of ophthalmology?

12 A. I oversee the clinical service.

13 Q. Do you have any affiliation with  
14 New York Medical College?

15 A. One second. Yes, I do.

16 Q. What is that?

17 A. I am the chairman of ophthalmology.

18 Q. Before you were affiliated with  
19 Westchester Medical Center, where were you  
20 working?

21 A. At Weill Cornell Medical College in  
22 Qatar.

23 Q. How long had you been with Weil  
24 Cornell in Qatar?

25 A. Four years.

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2 Q. Where did you graduate from medical  
3 school?

4 A. University of Virginia.

5 Q. What year did you graduate?

6 A. 1992.

7 Q. And did you do a residency?

8 A. I did.

9 Q. Where?

10 A. University of Florida.

11 Q. What year did you begin that  
12 residency?

13 A. 1993.

14 Q. Do you know Dr. Amro Ali?

15 A. I do.

16 Q. And when did you first meet him?

17 A. Around February of 2018, I believe.

18 Q. Did anyone ever inform you that Dr.  
19 Ali had an interest in joining the residency  
20 program at WMC?

21 A. Indirectly.

22 Q. How was that done indirectly?

23 A. Dr. Sharma indicated that he was a  
24 great research associate and to consider him.

25 Q. Did he do that in writing?



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2 A. No.

3 Q. When did that conversation take  
4 place?

5 A. I have no idea.

6 Q. Okay. Because this is a written  
7 transcript, all of your answers need to be  
8 verbal. The court reporter can't take down a  
9 nod of the head or a hand gesture. So I  
10 noticed you were -- you seemed to be shaking  
11 your head "no," but, of course, the court  
12 reporter can't record that. So I will just  
13 remind you that your answers need to be  
14 verbal, okay?

15 A. My answer was verbal.

16 Q. Did anyone else speak to you, in  
17 terms of Dr. Ali joining the residency  
18 program at WMC?

19 A. No, never.

20 Q. No one?

21 A. No, never.

22 Q. You never spoke with Dr. Bierman  
23 about that issue?

24 A. What period of time are we  
25 discussing?

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2 Q. We're discussing -- well, you  
3 learned of Dr. Ali, in connection with  
4 joining the residency program, February of  
5 2018. I am asking any time after that time,  
6 did you have discussions with anyone else  
7 about his joining the residency program?

8 A. Actually, that wasn't the question  
9 that you asked me, and that's not what I  
10 indicated in my answer.

11 Q. Well, my question is -- and,  
12 please, if you don't understand my question,  
13 let me know. Who else, after February of  
14 2018, did you discuss the issue of Dr. Ali  
15 joining the residency program at WMC?

16 A. I did not discuss the idea or issue  
17 of Dr. Ali joining the residency program in  
18 February of 2018 with anyone.

19 Q. Any time after that date?

20 A. The first conversation that I had  
21 about Dr. Ali joining the residency program,  
22 in conversation, was in June of 2018.

23 Q. In June of 2018, with whom did you  
24 have those discussions?

25 A. Dr. Ali sent me an e-mail in June

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2 asking to discuss it with me.

3 Q. Okay, and after he sent you that  
4 e-mail, did you have discussions with anyone  
5 concerning his e-mail, or the desire for him  
6 to join the residency program at WMC?

7 A. I set up a meeting with him, and  
8 with Dr. Bierman, and Dr. Wandel to discuss  
9 it.

10 Q. When did that meeting take place?

11 A. I believe, it was in June of 2018.

12 Q. Okay. Who is Michelle Hodge?

13 A. She is my administrative assistant.

14 Q. At the meeting in June of 2018, was  
15 she present at that meeting?

16 A. Yes, she was.

17 Q. Okay. What was her role at that  
18 meeting?

19 A. She took notes.

20 Q. Okay. Do you still have those  
21 notes?

22 A. Yes.

23 Q. Did you have a meeting with Dr.  
24 Wandel, Dr. Sharma, and Dr. Bierman, without  
25 Dr. Ali?

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2 A. I don't recall.

3 Q. Is it your practice, when you have  
4 meetings, to have Ms. Hodge attend them to  
5 take notes?

6 A. Usually. Not always.

7 Q. Before you learned of Dr. Ali's  
8 interest in joining the WMC residency program  
9 in ophthalmology, were you aware of his work  
10 at New York Medical College?

11 A. Yes.

12 Q. And can you tell me how you were  
13 aware of it?

14 A. He asked to meet with me sometime  
15 in the spring to discuss his research, and I  
16 did so.

17 Q. Did you have an opinion about the  
18 quality of his research?

19 A. I thought it was outstanding.

20 Q. Do you know how long Dr. Ali had  
21 been involved in doing research at New York  
22 Medical College?

23 A. I did not have a specific  
24 knowledge. I was under the impression that  
25 he had been there for, at least, a year or

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2 two.

3 Q. And while he was there, he was  
4 appointed a full-time faculty member of New  
5 York Medical College, correct?

6 A. I don't believe that is correct. I  
7 don't have knowledge of that, and I don't  
8 know what his appointment was.

9 Q. Okay. Well, let's take a look at  
10 some exhibits. Dr. Hutcheson, I am showing  
11 you what has been marked as exhibit Bierman  
12 3. The title is "meeting minutes, July 20,  
13 2018, time, 12:00 p.m., attendees, Amro Ali,  
14 Fredrick Bierman, Kelly Hutcheson, and  
15 Thaddeus Wandel, and Michelle Hodge." And  
16 then in parenthesis, "note taker."

17 Do you recall this meeting?

18 A. Yes, I do.

19 Q. Okay. Do you recognize this as Ms.  
20 Hodge's notes?

21 A. Yes.

22 Q. Does Ms. Hodge take accurate notes?

23 A. Yes.

24 Q. These meeting minute notes, do you  
25 keep them in your office or in your files

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2 somewhere?

3 A. I kept a copy on my computer.

4 Q. Okay. Earlier we talked about a  
5 meeting that you had in June of 2018. Is  
6 that different than this meeting that  
7 occurred in July of 2018?

8 A. I misspoke. This is the meeting I  
9 was referring to. It was July.

10 Q. Okay. In June, did you have a  
11 meeting with these same attendees, absent Dr.  
12 Amro Ali?

13 A. I already answered, I don't have  
14 any recollection of such a meeting.

15 Q. Okay. Did you have an  
16 understanding that there was a document  
17 request made, in connection with this  
18 proceeding?

19 A. Yes.

20 Q. Okay. Did you look through any of  
21 your files or were you asked to look through  
22 any of your files to see if you had any  
23 documents responsive to those requests?

24 A. Yes.

25 Q. Okay. And who did that search?

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2 A. I just looked through my own  
3 documents.

4 Q. And when you looked through your  
5 documents, was that on your computer?

6 A. Yes.

7 Q. Okay. And how did you conduct the  
8 search to find these meeting minutes?

9 A. I looked through my e-mail and  
10 found the attachment, plus Michelle probably  
11 sent these meeting minutes to me. She keeps  
12 our notes.

13 Q. I see. Does she keep your notes in  
14 hard copy somewhere?

15 MR. MILLUS: Objection as to  
16 form, okay, but go ahead.

17 Q. Could you answer the question?

18 A. Does she keep what "notes"?

19 Q. Meeting minutes in hard copy.

20 A. Probably not.

21 Q. Okay. In February 2018, when Dr.  
22 Sharma [sic] informed you of -- when you  
23 talked to him about his desire to join the  
24 residency program, was that in person, by  
25 telephone, e-mail, or otherwise?

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2 A. I didn't say that I discussed  
3 anything with Dr. Sharma in February of 2018.

4 Q. Was it February 2018, that you  
5 learned of Dr. Ali's existence?

6 A. Yes.

7 Q. Before that, you had no awareness  
8 of Dr. Ali?

9 A. That's correct. As far as --  
10 again, approximately, February.

11 Q. I am just going to scroll through  
12 these meeting minutes which are multiple  
13 pages and I will just ask you to confirm that  
14 these are the meeting minutes from that July  
15 20, 2018, meeting. This is the second page.  
16 And, please, I don't want to rush you or not  
17 give you an opportunity. If you want to read  
18 the document in full, we are certainly  
19 prepared to let you do that.

20 A. They appear to be the meeting  
21 minutes that you were referring to.

22 Q. Okay. And this is the third page.

23 We have been given some information  
24 that Dr. Ali, at the conclusion of the  
25 meeting, was upset and that security was



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2 called. Do you recall that?

3 A. I recall hearing about it.

4 Q. From whom did you hear that?

5 A. I don't recall.

6 Q. While you were in the meeting, what  
7 was Dr. Ali's demeanor?

8 A. He was very polite.

9 Q. Have you ever seen Dr. Ali be  
10 anything, other than polite and professional?

11 A. I can't recall. My answer would be  
12 "no." Prior to the end of the meeting, I  
13 don't recall if he was upset or not at the  
14 end of the meeting, but otherwise, I have  
15 always seen him be very professional, and  
16 polite, and appropriate.

17 Q. Can you tell me from whom you  
18 learned about the end of the meeting?

19 A. I just answered that.

20 Q. I am sorry, can you bear with me  
21 and repeat it, because I don't recall?

22 A. I don't recall.

23 Q. I see. If you look at the meeting  
24 minutes, there is no reflection in here of  
25 security being called, correct?

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2 A. I do not see that.

3 Q. If security had been called, would  
4 you expect that there would be a record of  
5 that at the institution?

6 A. I am going to surmise that Michelle  
7 and I had left at the conclusion of what you  
8 see in these minutes.

9 Q. I see. When you and Michelle left  
10 the meeting, who remained behind?

11 A. I wouldn't know because I wasn't  
12 there.

13 Q. Okay. Were you the first  
14 individuals to leave the meeting?

15 A. We were.

16 Q. Okay. After that meeting, did you  
17 have discussions with anyone about the  
18 meeting?

19 A. Probably.

20 Q. When you say, "probably," do you  
21 know who probably you had those discussions  
22 with?

23 A. Probably with Dr. Bierman.

24 Q. Anyone else?

25 A. No.

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2 Q. Okay. Do you recall anything about  
3 the substance of any discussion with Dr.  
4 Bierman about the meeting?

5 A. Merely to summarize the meeting.

6 Q. Okay. Okay, let's go to exhibit --  
7 I have put up on the screen a document  
8 identified as Exhibit Ali 1. It is Bates  
9 stamped "NYMC, slash, WMC00004." And it is  
10 entitled "New York Medical College GME policy  
11 USMLE Step 3." First off, can you tell me,  
12 have you ever seen this document?

13 A. I believe I have seen it in  
14 conjunction with this case.

15 Q. Okay. Can you tell me, first,  
16 "GME," that stand for "Graduate Medical  
17 Education"?

18 A. Correct.

19 Q. And USMLE Step 3, can you tell me  
20 what that acronym refers to?

21 A. "U.S. Medical Licensing  
22 Examination."

23 Q. And the medical licensing  
24 examination, that occurs in three steps?

25 A. I am not an expert on these things.

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2 You should refer these questions to Dr.  
3 Bierman.

4 Q. Okay. If you would, take a look at  
5 the substance of these -- this policy, and I  
6 will ask you a few questions about it.

7 A. I am really not in a position to  
8 comment on the policy. I am not familiar  
9 with it. It's not in my area of expertise  
10 and it's an appropriate question to ask to  
11 Dr. Bierman.

12 Q. It may be an appropriate question  
13 to ask Dr. Bierman, but I'm asking you, and  
14 you mentioned that you had looked at this in  
15 connection with this case or matter, and I am  
16 asking you to take a look at it. You don't  
17 have to read it, if you don't want to, but I  
18 invite you to do so. Then I might ask you  
19 some questions.

20 A. I cannot read off your screen.  
21 It's too small.

22 Q. Okay, let's enlarge it. That's  
23 fine. Is that better?

24 A. Okay.

25 Q. Okay. Do you understand what the

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2 document says?

3 A. I understand the words, yes.

4 Q. Okay. And in this document, is it  
5 fair to say that passing SMLE Step 3 is not  
6 necessary, prior to entry to a residency  
7 program at the medical college?

8 MR. MILLUS: Objection. Let  
9 me get this straight. You are  
10 asking the witness to look at the  
11 words and repeat it? You know  
12 what, I will stipulate to this case  
13 that passing the Step 3 is not  
14 necessarily required. In this  
15 case, there was good reason for it.  
16 But I will stipulate it. This  
17 document speaks for itself. To  
18 have the witness interpret the  
19 document -- not even "interpret,"  
20 basically, repeat the language on  
21 the document is, quite frankly,  
22 outrageous, and, you know what, I  
23 will direct the witness not to  
24 answer. If you want to go to the  
25 magistrate over that, be my guess.

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2 I would love her to read that part  
3 of the transcript. I am  
4 stipulating that this document is  
5 accurate, that there is no  
6 particular requirement of law that  
7 someone pass Step 3. But, of  
8 course, we have a multitude of  
9 reasons why your client needed to  
10 pass the Step 3, and I am ready to  
11 present that to the judge on  
12 summary judgment when the time  
13 comes. But I will not have this  
14 witness read the document that I  
15 just stipulated to. So I will not  
16 do it.

17 MR. SADOWSKI: You know,  
18 Paul, I understand your position,  
19 but there is no need for a speaking  
20 objection. If you are directing  
21 the witness not to answer, that's  
22 fine. But the speaking objection  
23 is inappropriate, and I would ask  
24 just, you know, there is no reason  
25 to become heated about it.

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2 MR. MILLUS: Rob, the  
3 question is so inappropriate, it  
4 boggles the mind. I am just  
5 saying, and I want to say it  
6 respectfully, because I like you,  
7 but it just boggles the mind. I  
8 don't want to see us getting into  
9 this, parsing the line, line by  
10 line of a document that she says  
11 she has no involvement in, and I  
12 told you, I stipulate that Step 3  
13 is not absolutely required to take  
14 a residency. You can take it your  
15 first year or your second year.  
16 It's clear as a bell. We don't  
17 need to beat this dead horse, Rob.  
18 I am ready to take that issue on.  
19 You feel it's a strong point.  
20 That's fine. But, please, I just  
21 want to move things along in a  
22 reasonable way. I don't mean to  
23 get heated.

24 MR. SADOWSKI: Okay, let's  
25 then go to a document that the

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2 witness probably should have  
3 familiarity with, but we will see.

4 Q. Okay, I am showing you, Dr.  
5 Hutcheson, what is an exhibit marked Ali 23,  
6 entitled "WMC Health Westchester Medical  
7 Center, Westchester Medical Center, resident,  
8 slash, Fellow Agreement, Terms of  
9 Appointment, Policies and Procedures  
10 2016/2017." It is Bates-stamped New York  
11 Medical College Bates-stamped WMC, slash --  
12 no, it's Bates-stamped NYMC/WMC00005. And I  
13 will represent, this is page 1 of a multipage  
14 document.

15 Do you recognize what this document  
16 is?

17 A. No.

18 Q. Have you never seen this document  
19 before?

20 A. No.

21 Q. Does Westchester Medical Center  
22 have a resident fellow agreement with terms  
23 of appointment, with policies and procedures?

24 A. I believe, it does.

25 Q. Have you ever looked at it?



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2 A. Not this document.

3 Q. Is there a more current version of  
4 this document?

5 A. I assume, there is.

6 Q. And have you looked at the more  
7 current version of this document?

8 A. Not in great detail, no. I am not  
9 the residency program director.

10 Q. So you are unfamiliar with this  
11 document?

12 Is that what you are saying?

13 A. Yes.

14 Q. Okay. Did you ever become aware,  
15 Dr. Hutcheson, that Dr. Ali applied for a  
16 PGY-3 position in the ophthalmology residency  
17 program at WMC, in October of 2015?

18 A. Yes, I did.

19 Q. When did you become aware of that?

20 A. Around the time of these  
21 discussions in July of 2018.

22 Q. Okay. Did you look at any  
23 documents, in connection with Dr. Ali's  
24 application for PGY-3, in October of 2015?

25 A. No, I don't believe so.

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2 Q. Did you ever learn that Dr. Wandel  
3 was supportive of Dr. Ali's 2015 application  
4 to the residency program?

5 A. Yes.

6 Q. Okay. And in the same token, Dr.  
7 Sharma was supportive of that application?

8 A. I don't know if he was supportive  
9 of that application or a later application.

10 Q. Have you ever reviewed Dr. Ali's  
11 CV?

12 A. Yes.

13 Q. When was that?

14 A. When we discussed his research.

15 Q. And when was that?

16 A. Springtime of 2018.

17 Q. And what was your view of his  
18 research?

19 A. I already answered that.

20 MR. MILLUS: Asked and  
21 answered. Objection.

22 Q. Sorry, would you indulge me?

23 A. His research was excellent.

24 Q. When you were at Weil Cornell in  
25 Qatar, did you have a physician trainee that

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2 you brought with you to WMC when you came  
3 there?

4 A. I did not bring someone with me,  
5 no.

6 Q. Okay. Was there an individual you  
7 worked with in Qatar who, ultimately, came to  
8 WMC?

9 A. Yes.

10 Q. Who is that?

11 THE WITNESS: Mr. Millus, am  
12 I able to say? I think that's a  
13 violation of confidentiality.

14 MR. MILLUS: Let me hear the  
15 question again.

16 MR. SADOWSKI: Can we have  
17 it read back?

18 (Whereupon, the requested  
19 portion was read by the reporter.)

20 MR. MILLUS: Doctor, that's  
21 not a privileged or confidential  
22 situation. It's one of the  
23 allegations in this case, as we  
24 discussed, when I think of it, but  
25 at the end, that person can be

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1 Kelly Hutcheson, M.D.

2 identified.

3 THE WITNESS: Can be?

4 MR. MILLUS: Yes.

5 A. It was is Asmeer Shwiki.

6 Q. When he came to WMC, did he enter  
7 the residency program?

8 A. He did.

9 Q. Did he do that through the San  
10 Francisco Match? What was your answer?

11 A. No.

12 Q. Had he passed Step 3 of the United  
13 States Medical Licensing Examination?

14 A. Yes.

15 Q. Before he joined the residency  
16 program; is that correct?

17 A. Yes.

18 Q. Did he have or was he a sponsor of  
19 an NIH grant when he became a resident?

20 A. No.

21 Q. The answer was "no"?

22 A. The answer was "no."

23 Q. I'm sorry, if you could speak up,  
24 Doctor. I am having trouble hearing some of  
25 your answers.

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1 Kelly Hutcheson, M.D.

2 A. Is that better?

3 Q. Yes.

4 A. I will put the volume up.

5 Q. Yes. If the candidate did not go  
6 through the San Francisco Match, what was the  
7 mechanism by which he entered the residency  
8 program?

9 A. If there was an open spot outside  
10 the match.

11 Q. And how did that opening come  
12 about?

13 A. It was added to the GME budget.

14 Q. And what was the mechanism by which  
15 the GME budget was increased for this new  
16 position?

17 A. The program was growing and it was  
18 justified to add more residents.

19 Q. Who requested the budget increase  
20 and the increase in residents?

21 A. That was me.

22 Q. And through whom did you make that  
23 request?

24 A. The CFO of the hospital.

25 Q. And is that Michael Israel?

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1 Kelly Hutcheson, M.D.

2 A. No.

3 Q. Who was it?

4 A. Gary Berniki.

5 Q. Oh, okay. Do you know of any other  
6 positions in the residency program filled  
7 outside of the San Francisco Match?

8 A. Yes.

9 Q. How many?

10 A. Since I have been here, one.

11 Q. And that's the one you identified?

12 A. No, sorry, an additional one.

13 Q. Okay. Who was that?

14 A. Pevo Tatelbaum.

15 Q. How was it that it came about that  
16 he obtained a residency position outside of  
17 the San Francisco Match?

18 A. Similar -- there was an open spot.

19 Q. And was the open spot made because  
20 someone left or because there was an  
21 additional funding obtained for a new  
22 position?

23 A. No, either.

24 Q. How did the spot come about?

25 A. There was a vacancy that did not

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1 Kelly Hutcheson, M.D.

2 get filled.

3 Q. Was that a vacancy that would have,  
4 otherwise, been filled through the San  
5 Francisco Match?

6 A. Yes.

7 Q. And how did that vacancy come  
8 about?

9 A. We did not receive our full slate  
10 of applicants.

11 Q. What year was this?

12 A. I don't recall.

13 Q. Was it while you were at the WMC?

14 A. Yes.

15 Q. Okay. What was the reason that you  
16 did not receive your full slate of  
17 applicants?

18 A. You go through a match process and  
19 it's the computer algorithm, and if you don't  
20 match, then the spot will be unfilled.

21 Q. Okay.

22 MR. SADOWSKI: Let's take a  
23 five-minute break.

24 MR. MILLUS: Okay.

25 (Whereupon, a recess was

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1 Kelly Hutcheson, M.D.

2 taken at this time.)

3 BY MR. SADOWSKI:

4 Q. The residency position given to the  
5 individual from Qatar, I think the name was  
6 Asmeer Shwiki, was that position advertised?

7 A. I don't recall.

8 Q. Was the position posted online?

9 A. I don't know.

10 Q. Was he interviewed by anyone, prior  
11 to his acceptance to the residency?

12 A. Yes.

13 Q. By who?

14 A. Dr. Wandel, one of the senior  
15 residents, another faculty person, and me.

16 Q. Do you know the name of the  
17 resident and the faculty person?

18 A. I would have to go back and look.

19 Q. Did Dr. Bierman approve that  
20 residency position?

21 A. What do you mean, "approve"?

22 Q. Did he approve the candidate  
23 entering the residency position?

24 A. I don't know. I don't recall how  
25 that process works.



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1 Kelly Hutcheson, M.D.

2 Q. Well, who would be the best  
3 individual to know how that process worked?

4 A. Dr. Wandel.

5 Q. Okay. Do you recall having a  
6 meeting with Dr. Sharma, where it was  
7 suggested that you give Dr. Ali a try-out  
8 period, in connection with him obtaining a  
9 residency position?

10 A. Don't recall.

11 Q. You don't recall?

12 A. Do not recall that.

13 Q. Okay. Are you aware that the  
14 ophthalmology department received funding  
15 from the Doss family?

16 A. No.

17 Q. Are there doctors in the residency  
18 -- are or were there doctors in the residency  
19 program by the name of Doss?

20 A. Yes.

21 Q. And there were two of them,  
22 correct?

23 A. Yes.

24 Q. A man and a woman, correct?

25 A. Yes.

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1 Kelly Hutcheson, M.D.

2 Q. And they were about two years apart  
3 in the program?

4 A. Approximately.

5 Q. Who made the application for Dr.  
6 Asmeer Shwiki's visa?

7 A. I don't know.

8 Q. Did you play any role in that?

9 A. No.

10 Q. Were you ever asked for letters to  
11 use in connection with his visa application?

12 A. It's likely that I was.

13 Q. How do you say -- why do you say it  
14 was "likely"?

15 A. Because the GME office might have  
16 asked something given he was a resident in  
17 the program, in order for them to process the  
18 paper work.

19 Q. So you're saying it's the GME  
20 office that processed his visa paperwork?

21 A. I don't know the process, but that  
22 would be the department that typically would  
23 handle something like that. It doesn't come  
24 out of our office.

25 Q. Does the department ever receive

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1 Kelly Hutcheson, M.D.

2 funds in the nature of financial donations,  
3 grants, or prizes that are tied to  
4 individuals obtaining positions in the  
5 residency program?

6 A. No, certainly not during my time.

7 Q. Are you aware, are you not, that  
8 Dr. Ali was at one point offered a position  
9 in the residency program at WMC, correct?

10 A. No, I am not aware of that.

11 MR. MILLUS: Sorry, I object  
12 as to the form, for the record.

13 The witness can answer.

14 A. I said, no, I am not aware of that.

15 Q. Did you have an opportunity to  
16 review any of Dr. Ali's residency  
17 applications?

18 A. No. Actually, let me amend that.  
19 During the review for this deposition, I did  
20 have a chance to look at some of his  
21 paperwork, but I did not see his applications  
22 prior to this.

23 Q. Okay. After Dr. Ali went through  
24 the San Francisco Match and was, apparently,  
25 unsuccessful, do you know if anyone asked you

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1 Kelly Hutcheson, M.D.

2 your opinion on whether he should go through  
3 the San Francisco Match a second time?

4 A. I was not working there at that  
5 time.

6 Q. So you recall no conversations with  
7 Dr. Sharma asking your opinion as to whether  
8 Dr. Ali should make a second application  
9 through the San Francisco Match?

10 A. It was my impression that Dr. Ali  
11 had already made two applications through the  
12 San Francisco Match, prior to my arrival  
13 here.

14 Q. But are you aware that there was  
15 also an application, outside of the San  
16 Francisco Match?

17 A. No, I was not aware of that.

18 Q. Okay. Do you have any knowledge of  
19 Dr. Starwhite leaving the residency program  
20 with a position, and Dr. Ali was offered that  
21 position?

22 A. I don't know who that is.

23 Q. And you have no knowledge about the  
24 offer to Dr. Ali?

25 A. No.

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1 Kelly Hutcheson, M.D.

2 Q. And no knowledge that the offer was  
3 contingent on him successfully passing the  
4 Step 3 exam?

5 A. No.

6 Q. In all of the papers that you have  
7 reviewed, in connection with Dr. Ali, was any  
8 of that information contained in those  
9 papers?

10 MR. MILLUS: Objection as to  
11 form. What "papers"?

12 MR. SADOWSKI: Well, Dr.  
13 Hutcheson said she reviewed papers,  
14 which I think she said were some of  
15 the first times she's seen some of  
16 these papers, and I am asking if  
17 any of those papers that she  
18 reviewed, she learned about his  
19 application outside the San  
20 Francisco Match?

21 THE WITNESS: No.

22 Q. Have you ever been told that Dr.  
23 Ali was promised a position in the  
24 ophthalmology residency program, upon  
25 completing his commitment to perform and

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1 Kelly Hutcheson, M.D.

2 publish research for New York Medical

3 College?

4 A. Told by whom?

5 Q. Pardon me?

6 A. Told from whom?

7 Q. Have you heard from anyone about an

8 arrangement, whereby, he would work as a

9 researcher for New York Medical College, and

10 in exchange, he would obtain a residency

11 position in the ophthalmology program?

12 MR. MILLUS: Objection as to

13 form. You may answer.

14 A. I heard that from Dr. Ali.

15 Q. Have you heard that from anyone

16 else?

17 A. No.

18 Q. Did Dr. Ali tell you that that

19 promise was made to him by Dr. Sharma and Dr.

20 Wandel?

21 A. He implied that, yes.

22 Q. How did he imply that?

23 A. I would have to go back and look at

24 his e-mail. Do you have that document

25 available?

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1 Kelly Hutcheson, M.D.

2 Q. I may. Did your name appear on any  
3 of Dr. Ali's research projects, grant  
4 proposals, any publications?

5 A. I did not participate in any  
6 research with him. It's possible that he may  
7 have applied for an IRB during the couple of  
8 short months in which we overlapped, and if  
9 we did I, would have approved it as the  
10 chairman, as I was also supportive of his  
11 research.

12 Q. Are you aware that before Dr. Ali  
13 became a faculty member and researcher, that  
14 the Medical College was cited by ACGME for a  
15 lack of scholarly academic research?

16 A. Not specifically.

17 Q. Are you, generally?

18 A. I was aware that there were ACGME  
19 citations, not what they were detailed.

20 Q. I see. So you were aware of  
21 citations, but not the specific reasons for  
22 the citations?

23 A. Correct.

24 Q. Okay. Were you ever told, or did  
25 you ever learn that Dr. Ali was brought on

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1 Kelly Hutcheson, M.D.

2 board to do research to assist the Medical  
3 College in its scholarly academic  
4 publications?

5 A. No.

6 Q. Have you ever discussed Dr. Ali's  
7 application to the residency program with Dr.  
8 Wandel?

9 A. Yes.

10 Q. Can you tell me what was said in  
11 those discussions?

12 A. Dr. Wandel informed me about Dr.  
13 Ali's past application through the match, and  
14 that he was interviewed, and that based on  
15 the results of the interview, he was put onto  
16 the list, and he didn't match, on the basis  
17 of his interview process.

18 Q. What was he --

19 A. And application.

20 Q. The interview process, is that the  
21 reason you understood that Dr. Ali did not  
22 match with WMC?

23 A. No, that is incorrect.

24 Q. Okay. What is correct?

25 A. Dr. Ali went through the match,



1 Kelly Hutcheson, M.D.

2 like every other applicant, and he was put on  
3 the rank list, and he did not match.

4 Q. I thought you said the reason for  
5 that was that something occurred during the  
6 interview process?

7 A. I immediately corrected myself to  
8 say, based on the interview and the  
9 application, which is standard. When we say,  
10 "interview," we refer to that as "the  
11 process," but what it really means is the  
12 entire applicant package.

13 Q. Okay. Just talking about the  
14 interviews themselves, did you learn any  
15 specifics about how Dr. Ali interviewed with  
16 residents and faculty?

17 A. I did not. You also recall, this  
18 was years before I worked here.

19 Q. I understand. We have the timeline  
20 down, I think. So your knowledge would have  
21 been learned after the fact?

22 A. Correct.

23 Q. I have no more questions. Thank  
24 you for your time, Dr. Hutcheson. I hope you  
25 can make your afternoon appointment.

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1 Kelly Hutcheson, M.D.

2 MR. MILLUS: None, as well.

3 -oOo-

4 (Whereupon, the examination  
5 of KELLY HUTCHESON, M.D., was  
6 adjourned at 11:33 p.m.)  
7  
8  
9

10  
11 KELLY HUTCHESON, M.D.  
12  
13

14 Subscribed and sworn to  
15 before me this day  
16 of , 2020.  
17  
18

19 NOTARY PUBLIC  
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C E R T I F I C A T E

STATE OF NEW YORK       )  
  : ss.  
COUNTY OF NEW YORK    )

I, AYDIL M. TORRES, a Notary Public  
within and for the State of New York, do  
hereby certify:

That KELLY HUTCHESON, M.D., the  
witness whose deposition is hereinbefore set  
forth, was duly sworn by me and that such  
deposition is a true record of the testimony  
given by the witness.

I further certify that I am not  
related to any of the parties to this action  
by blood or marriage, and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 25th day of September, 2020.

*Aydil M. Torres*

AYDIL M. TORRES

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DEPOSITION ERRATA SHEET

Our Assignment No. J6033885

Case Caption: AMRO ALI, M.D. vs. WESTCHESTER  
MEDICAL CENTER AND NEW YORK MEDICAL COLLEGE

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
That I have read the entire transcript of  
My Deposition taken in the captioned matter  
Or the same has been read to me, and  
The same is true and accurate, save and  
Except for changes and/or corrections, if  
Any, as indicated by me on the DEPOSITION  
ERRATA SHEET hereof, with the understanding  
That I offer these changes as if still under  
Oath.

KELLY HUTCHESON, M.D.

Subscribed and sworn to on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_ before me,

Notary Public,

In and for the State of \_\_\_\_\_

KELLY HUTCHESON, M.D.  
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